

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64305 of 2025

Arising Out of PS. Case No.-165 Year-2024 Thana- Bypass District- Bhagalpur

Upendra Kumar Yadav @ Upendra yadav Son of Late Janku Prasad Yadav
Resident of Village -Khutaha Police Station- Bypass District -Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary, Adv.
For the State : Mr.Shailendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 22-01-2026 Heard learned counsel for the petitioner as well as
learned APP for the State.

2. In this case, the petitioner is seeking regular bail in connection with NDPS Case No. 46 of 2025 arising out of Bypass P.S. Case No. 165 of 2024, registered for the offences punishable under Sections 8(c)/21(c)/25/29 of the NDPS Act.

3. On 28.12.2024 at about 6:15 PM, on secret information, the informant intercepted a four-wheeler on Bhagalpur–Hansdiha NH. On search, 920 grams of smack was recovered from the dicky. The passenger and driver of the vehicle disclosed their names as Deepankar Kumar and Upendra Kumar Yadav (petitioner) and they were apprehended. From their possession, cash, mobiles and a Jharkhand Police ID card were also recovered.

4. The learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated. The petitioner is under custody for more than a year. The charge-sheet has been submitted without obtaining the FSL report. He has submitted further that charge-sheet shows that the investigation is incomplete against the petitioner. The investigating officer has mentioned in the charge-sheet that the process of collection of evidences is still continuing against the petitioner. He has also submitted that in similar case, the Hon'ble coordinate Bench of this Court in the case of Ram Babu Yadav vs. The State of Bihar (Cr. Misc. No. 21326 of 2021) has granted bail to the petitioner. The relevant portion of that order is being extracted hereinbelow:-

“Considering the submissions of the parties, the Court finds considerable force in the contention raised by the learned counsel for the petitioner that though the present case is not with regard to default bail, but then charge-sheet came to be submitted in absence of F.S.L., merely because the Investigating Officer felt that the accused would get the benefit of default bail under Section 167(2) of the Cr.P.C. amply reflects that the Investigating Officer was not aware of the provisions relating to N.D.P.S. Act and was completely oblivious of Section 36A(4) of the N.D.P.S. Act as such mere filing of charge-sheet in absence of F.S.L. does not justify the incarceration of the petitioner in custody as such for the present, for the purposes of bail, without expressing any opinion on merits of the case, the petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-10, Sasaram, Rohtas in



connection with Dinara (Bhanas O.P.) P. S. Case No. 267 of 2020 corresponding to N.D.P.S. Case No. 11 of 2020 subject to the condition as laid down under Section 437(3) Cr.P.C.”

5. On the other hand, Sri Shailendra Kumar, learned APP for the State has opposed the prayer for bail.

6. The petitioner has remained under custody for more than a year and the process of collection of evidences is still going on. The FSL report is awaited. There is nothing which shows that the investigating officer has made request for extension of time in terms of the proviso of Section 36A(4) of NDPS Act.

7. Considering the above-mentioned facts and circumstances, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned District & Additional Sessions Judge-I, Bhagalpur in connection with NDPS Case No. 46 of 2025 arising out of Bypass P.S. Case No. 165 of 2024, subject to the condition that the petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(Nawneet Kumar Pandey, J)

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